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IN THE HIGH COURT OF CHHATTISGARH AT BILASPURWRIT PETITION NO. 4657 OF 2004PETITIONER

✓ Jagat Narayan Singh, aged about 54 years, S/o. Shri Banka Singh, Posted as Accountant (Class-III) Non-Executive, In the Office of Assistant Commissioner, Tribal Welfare Department, Jagdalpur, District Jagdalpur (C.G.).

P.R. No. 4656/04
Presented by Shri. A.K. Ghosh
dated 29-11-04

VERSUSRESPONDENTS

1. ✓ State of Chhattisgarh, Through the Secretary, Department of Home Schedule Caste & Schedule Tribe Development Department, D.K.S. Bhawan, Raipur (C.G.).
2. ✓ The Collector, Bastar, District Jagdalpur (C.G.).
3. ✓ The Assistant Commissioner, Tribal Development Department, Jagdalpur, District Jagdalpur (C.G.)
4. ✓ Smt. Ahilya Nage, Accountant, Govt. Higher Secondary School, Bhanpuri, Distt. Jagdalpur (C.G.)



WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

DETAILS OF THE PETITION

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक

WP No. 469/05

200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	13.4.2005 Shri A.K. Shukla, counsel for the petitioner. Shri Akhil Agrawal, Panel Lawyer for the State. The petitioner, who is working as Accountant in the office of Assistant Commissioner, Tribal Development, Jagdalpur, has preferred this petition questioning the legality & propriety of transfer order dated 13.8.2004 whereby the petitioner has been transferred from the office of Assistant Commissioner, Tribal Development, Jagdalpur to the office of District Education Officer, Block Makadi. The case of the petitioner is that he is working as Accountant in the office of Assistant Commissioner, Tribal Development, Jagdalpur graded as Class-3 Non-executive post. He is working there since July, 1998. However, the petitioner has been transferred from the office of Assistant Commissioner, Jagdalpur without seeking concurrence of the Chief Minister and the order has been passed just to accommodate respondent No.4; who has been attached in the office of Assistant Commissioner, Tribal Development, Jagdalpur. The petitioner's further case is that he is permanent employee of the said department and he has been transferred to Makadi where no post of Accountant is lying vacant, as there is only one post of Accountant and on that post one Shri Lalit Kumar Sahu is already posted. The petitioner has been declared as permanent employee by virtue of order dated 7.6.1993 (Annexure P-11) w.e.f. 20.1.1989. Return on behalf of the respondents has already been filed in which it has been mentioned that the petitioner has been transferred	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक 46.57/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	on the ground of administrative exigency and he has already been relieved from the post. Learned counsel for the petitioner submits that the petitioner is suffering from Diabetes and his daughter is studying in M.Com (Previous) and the transfer order has been passed in mid academic session. Counsel further submits that in pursuance of the Court's order, the petitioner has made a representation to the respondent authorities but that has been rejected without assigning any reason. Learned counsel for the respondents submits that the petitioner has been transferred on the post of equal pay i.e. on the post of Investigator in the office of Block Education Officer, Tribal Development, Makadi. He further submits that personal difficulties should not come in the way of administrative exigency, the transfer is an incident of service and also an essential condition of service. Therefore, the petition be dismissed. Rejoinder to the return has also been filed on behalf of the petitioner. Having heard learned counsel for the parties, I have perused the record. It is an admitted position that the petitioner was working as permanent accountant in the office of Assistant Commissioner, Jagdalpur and vide order dated 7.6.1993 (Annexure P-11) he was confirmed on the post of Accountant w.e.f. 20.1.1989. Moreover, the petitioner has specifically mentioned in the petition that no post of Accountant is lying vacant at Makadi where he has been transferred,	

आदेश पत्रक

मामला क्रमांक WP 4657/07 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
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	as there is only one post of accountant and on that post one Shri Lalit Kumar Sahu is already posted. In reply it has been mentioned that the petitioner has been transferred on the post of Investigator and the pay scale of both the posts is equal, but respondents have not been able to demonstrate that how a permanent accountant has been transferred on the post of Investigator and whether the post of Investigator is in the cadre of Accountant. Therefore, in my opinion the impugned transfer order is illegal, as the Accountant cannot be transferred on a post of Investigator. In the result, the petition of the petitioner is allowed and impugned transfer order dated 13.8.2004 (Annexure P-1) is hereby quashed. Consequently, M.(W.)P. No.4965/04 stands disposed of.	

Sd/-
L.C.BHADOO
Judge

(पीछे देखिये)

20.4.05
18-5-05